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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 UNITED STATES OF AMERICA,

9 Plaintiff,

10 v.

11 WILLIAM P. SCHMIDT, *et al.*,

12 Defendants.

Case No. C16-0985RSL

ORDER GRANTING PLAINTIFF'S
MOTION FOR SANCTIONS AND
AN AWARD OF FEES

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14 This matter comes before the Court on the “United States of America’s Motion for
15 Sanctions Against William P. Schmidt.” Dkt. # 44. On August 17, 2017, the Court ordered Mr.
16 Schmidt to provide initial disclosures and complete and accurate responses to the United States’
17 First Interrogatories and First Requests for Production. Mr. Schmidt was warned that failure to
18 make the required disclosures and productions may bar him from introducing evidence or
19 presenting the testimony of witnesses that should have been disclosed. Despite a number of
20 reminders and inquiries from plaintiff’s counsel, Mr. Smith has failed to comply with the Court’s
21 order. Although he produced a handful of documents at his deposition and mailed a collection of
22 correspondence and bills to the Court, he has not served his initial disclosures or made written
23 responses to the discovery requests.

24 Pursuant to Fed. R. Civ. P. 37(b)(2)(A), if a party fails to obey an order to provide
25 discovery, the Court “may issue further just orders,” including an order “prohibiting the
26 disobedient party from supporting or opposing designated claims or defenses, or from

1 introducing designated matters in evidence.” “Rule 37 sanctions must be applied diligently both
2 ‘to penalize those whose conduct may be deemed to warrant such a sanction, [and] to deter those
3 who might be tempted to such conduct in the absence of such a deterrent.’” Roadway Express,
4 Inc. v. Piper, 447 U.S. 752, 763-64 (1980) (quoting National Hockey League v. Metropolitan
5 Hockey Club, 427 U.S. 639, 643 (1976)). Mr. Schmidt has not substantively responded to
6 plaintiff’s motion, nor has he offered any explanation for his failure to comply with the Court’s
7 discovery order. His initial failure to engage in discovery necessitated an extension of the
8 discovery deadlines, and his continued failure has effectively precluded plaintiff from
9 investigating and analyzing his defenses. Discovery in this matter is now closed and dispositive
10 motions are pending.

11 In order to ensure the timely resolution of the remainder of this case, in order to deter
12 other litigants from engaging in dilatory tactics, in recognition of the lack of any other viable and
13 effective alternative, and as punishment for his failure to satisfy his discovery obligations, the
14 Court finds that an evidentiary bar is warranted in this matter. In addition, the Court finds that
15 the failure to comply with the Court’s order was not substantially justified and that an award of
16 fees under Fed. R. Civ. P. 37(b)(2)(C) is not unjust.

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18 The United States’ motion for sanctions is GRANTED. Mr. Schmidt is hereby barred
19 from introducing any evidence or presenting testimony from any witnesses that should have been
20 disclosed in his initial disclosures and/or in response to the United States’ discovery requests,
21 with the exception of the documents produced at deposition and/or filed with the Court at Dkt.
22 # 46 and # 47. Mr. Schmidt shall also be required to reimburse the United States for the
23 reasonable expenses incurred in bringing its motion to compel and this motion for sanctions.
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1 The Clerk of Court is directed to note a "Request for Fees" on the Court's calendar for
2 November 3, 2017. The United States shall, on or before that date, submit a statement of its
3 reasonable expenses.
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5 Dated this 24th day of October, 2017.

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7 Robert S. Lasnik

8 United States District Judge
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